

# NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

## CHAPTER Env-Dw 700 WATER QUALITY: STANDARDS, MONITORING, TREATMENT, COMPLIANCE, AND REPORTING

Statutory Authority: RSA 485:3

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### PART Env-Dw 720 INSPECTIONS; SIGNIFICANT DEFICIENCIES

#### Env-Dw 720.01 Entry and Inspection of Public Water Systems and Privately Owned Redistribution Systems.

(a) As specified in RSA 485:41, V, in order to determine compliance with RSA 485 and rules adopted under RSA 485, specifically Env-Ws 300 and successor rules in subtitle Env-Dw, the department shall enter, and authorize its employees and agents to enter, the premises of public water systems (PWS) and privately owned redistribution systems (PORS) for the purpose of carrying out inspections, taking water samples, and inspecting any and all records and facilities of such PWS and PORS (systems).

(b) The owner, operator, or any other person(s) in charge of the premises, facilities, or records, including any other existing information that will assist the department in conducting the inspection, or any combination thereof, of a PWS or PORS shall allow staff of the department to:

- (1) Enter the premises and facilities under the control of such person for the purpose of evaluating the adequacy of the facilities, equipment, processes, controls, and operation and maintenance of the system for producing and distributing safe drinking water to persons served by the system;
- (2) Conduct tests on any feature of the system, including, as applicable, its raw water source, treated water, or distribution system water; and
- (3) Review all records and files of the system, along with any other existing information that will assist the department in conducting the inspection.

(c) If any tests conducted pursuant to (b)(2), above, are deemed necessary for the protection of the health or safety of persons served by the system, the costs of the tests shall be charged to the system's owner.

(d) The owner, operator, or other person in charge of the premises, facilities, or records of the system being inspected may request identification from the inspector.

Source. (See Revision Note #3) #9760, eff 7-30-10

#### Env-Dw 720.02 Sanitary Survey Field Inspections.

(a) Subject to (b) below, at least 24 hours in advance of a pending inspection the department shall notify:

- (1) The certified operator, for any system that has a certified operator; or

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- (2) The owner of the system, for any system that does not have a certified operator.
- (b) The department shall not give advance notice if evidence indicates that a public health threat or other violation of Env-Ws 300 or successor rules in subtitle Env-Dw exists.
- (c) The sanitary survey shall cover the following areas:
- (1) The system's layout and general information, such as the number of persons served by the system and whether the system serves residential, commercial, or industrial users;
  - (2) Water quality;
  - (3) Monitoring, reporting, and data verification;
  - (4) Sources of supply;
  - (5) Storage facilities;
  - (6) Treatment facilities;
  - (7) Pumping facilities, including pumps, pump houses, and controls;
  - (8) Distribution system;
  - (9) System management and operation;
  - (10) Technical, financial, and managerial capacity;
  - (11) Owner and operator compliance with Env-Ws 300 and successor rules in subtitle Env-Dw;
  - (12) Emergency preparedness planning;
  - (13) Security; and
  - (14) Any other aspect of the system that could influence the ability of the system to produce and distribute safe drinking water.
- (d) The minimum frequency of sanitary surveys shall be as shown in Table 720-1, below:

Table 720-1  
Frequency of Sanitary Surveys

<u>Type of System</u>	<u>Frequency of Sanitary Survey</u>
Community	3 years
Non-transient non-community	3 years
Transient non-community	5 years

Source. (See Revision Note #3) #9760, eff 7-30-10

### Env-Dw 720.03 Significant Deficiencies.

- (a) Any of the following conditions shall constitute a significant deficiency for a PWS or as applicable for a PORS:
- (1) A potential contamination source that poses a risk to public health and that is not already subject to a monitoring or control plan is present in the sanitary protective area;
  - (2) System records show that the source has inadequate capacity to meet current demands or that the system is otherwise unable to provide sufficient water to meet current demands;
  - (3) A non-approved source is connected to the system, regardless of whether the source is in use;

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- (4) Existing treatment facilities and processes are not operative;
  - (5) Treatment has been installed or modified in a way that could adversely affect public health without prior approval from the department;
  - (6) System has low or negative pressures that could result in entry of contaminants;
  - (7) System lacks a cross-connection control program or cross-connection devices, if applicable;
  - (8) System lacks backflow prevention device, if required;
  - (9) System has an inoperative well pump;
  - (10) System lacks an operative duplicate booster pump, if required;
  - (11) System's pump house is subject to flooding;
  - (12) System's hydraulics, pumping facilities, storage capacity, or distribution facilities have been modified in a way that could adversely affect public health;
  - (13) System has electrical hazards in or around the pump house;
  - (14) System does not have a certified operator even though one is required;
  - (15) System's certified operator is below the required grade;
  - (16) System's water storage tank is subject to contamination;
  - (17) System does not have a schedule for performing regular system maintenance;
  - (18) System has pumping facilities that are not secured or a well that is not protected from tampering;
  - (19) System does not have a properly-operating meter or other means to measure flow for each incoming source, if required;
  - (20) System does not have individual sampling taps or other means to obtain discrete samples for each source;
  - (21) System is a community water system and does not have an emergency plan available for review when requested;
  - (22) Required monitoring, reporting, and recordkeeping is not being done as required;
  - (23) System has any other violation(s) of applicable rules that pose(s) a significant risk to public health; and
  - (24) As of March 31, 2012, the system does not have available for review by the department the record drawings or other distribution system plans required by Env-Ws 372.33(d), Env-Ws 373.26(c), Env-Ws 360.15(c)(9), or Env-Ws 361.07, or successor rules in subtitle Env-Dw, as applicable.
- (b) Any PWS using a groundwater source also shall be subject to the significant deficiencies identified in Env-Dw 717.20.

Source. (See Revision Note #3) #9760, eff 7-30-10

### Env-Dw 720.04 Notice of Significant Deficiencies; Corrective Action.

- (a) The department shall inform the system owner and certified operator, if the system has a certified operator, of all significant deficiencies in writing.

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- (b) The notice issued pursuant to (a), above, shall require the owner to:
- (1) Implement any corrective action(s) specified in the notice for which consultation or prior approval from the department is not required within 120 days or such earlier time as is specified pursuant to (d), below; and
  - (2) Consult with the department within 30 days of receiving written notice for the purpose of developing a corrective action plan (CAP) as specified in Env-Dw 720.05 for any corrective action(s) not covered by (1), above.
- (c) The corrective action(s) specified in the notice shall consist of one or more of the following, as necessary to correct the problem and protect public health:
- (1) Correct significant deficiencies;
  - (2) Provide an alternate source of water; or
  - (3) Eliminate the source of contamination.
- (d) The department shall specify a compliance deadline of less than 120 days if:
- (1) The actions to be taken can reasonably be implemented in a shorter period of time; and
  - (2) An earlier date is needed to protect public health.
- (e) A system owner who has been directed to take corrective action pursuant to this section shall notify the department within 30 days of completing the corrective action.

Source. (See Revision Note #3) #9760, eff 7-30-10

### Env-Dw 720.05 Corrective Action Plan (CAP).

- (a) If a system owner is required to develop a corrective action plan (CAP) pursuant to Env-Dw 720.04(b)(2), then within 30 days after the required consultation, or by such later date established by agreement with the department, the owner shall develop and submit to the department a CAP, which identifies the action(s) that will be taken to correct the system's deficiencies and the schedule upon which the action(s) will be taken.
- (b) If any of the significant deficiencies cannot be corrected within 120 days of the date of the notice issued pursuant to Env-Dw 720.04(a), the CAP submitted by the system owner shall identify interim measures that will be taken in order to protect the health and safety of persons served by the system pending final action.
- (c) The department shall approve a CAP proposed by the system owner if:
- (1) The action(s) and schedule for taking the action(s) will correct all problems within a time frame that is protective of public health; and
  - (2) The CAP identifies interim measures that will be taken to address any significant deficiencies that cannot be corrected within 120 days of the date of the notice in order to protect the health and safety of persons served by the system pending final action.
- (d) The owner shall not make any modifications to the approved CAP without first obtaining approval for the modifications from the department in accordance with (e) and (f), below.
- (e) To request approval for modifications to the action(s) or schedule in an approved CAP, the owner shall submit a request in writing to the department which explains the requested modification(s) and the reason(s) why the CAP as modified meet the criteria for approval specified in (f), below.

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(f) The department shall approve a modification to a CAP if:

- (1) The modification was made necessary due to circumstances beyond the control of the system owner; and
- (2) The CAP as modified will correct all remaining problems and be equally protective of public health.

(g) A system owner who has received approval for a CAP pursuant to this section shall notify the department within 30 days of completing the action(s) required by the CAP.

Source. (See Revision Note #3) #9760, eff 7-30-10

### Env-Dw 720.06 Compliance.

(a) Within 120 days of the date of the notice issued pursuant to Env-Dw 720.04(a), the system owner shall:

- (1) Have fully corrected all significant deficiencies; or
- (2) Be in compliance with a CAP approved by the department.

(b) A system owner shall be subject to enforcement as specified in RSA 485:58 for any failure to correct the deficiency(ies) and for any failure to comply with an approved CAP.

Source. (See Revision Note #3) #9760, eff 7-30-10

Env-Dw 720.07 Violations Classified. For a PWS, failure to be in compliance as identified in Env-Dw 720.06(a) shall constitute a treatment technique violation.

Source. (See Revision Note #3) #9760, eff 7-30-10

### Env-Dw 720.08 Public Notification.

(a) The owner of a PWS at which a treatment technique violation as described in Env-Dw 720.07 occurs shall provide standard public notice as specified in Env-Dw 801.08 for community water systems or Env-Dw 801.11 for non-community water systems, as applicable.

(b) The owner of a community water system at which a significant deficiency, as specified in Env-Dw 720.03, has not been corrected within 12 months of being notified of the deficiency, shall:

- (1) Notify persons served by the system of the deficiency through the consumer confidence report (CCR) as specified in Env-Dw 811; and
- (2) Continue to report in the CCR annually until the deficiency has been corrected and confirmation of the correction has been received from the department.

(c) The owner of a non-community water system at which a significant deficiency, as specified in Env-Dw 720.03, has not been corrected within 12 months of being notified of the deficiency shall include the information specified in (d), below, in each notice provided on or after the 12-month period.

(d) The notice required by (b) or (c), above, shall include the following information:

- (1) The nature of the significant deficiency and the date it was identified by the department; and
- (2) A description of the approved plan and schedule for correction of the significant deficiency, including interim measures, progress to date, and any interim measures completed.

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(e) In a community where the population of non-English speaking residents exceeds 20% of the community population, the notice shall contain:

- (1) Information in the appropriate language(s) regarding the importance of the notice; or
- (2) A telephone number or address, in the appropriate language, at which customers can contact the system to obtain a translated copy of the notice or assistance in the appropriate language.

Source. (See Revision Note #3) #9760, eff 7-30-10

### Env-Dw 720.09 Required Recordkeeping for Public Water Systems.

(a) In addition to complying with the requirements of Env-Ws 304 or successor rules in subtitle Env-Dw, a PWS owner shall maintain the following records for the time period specified, subject to (b), below:

- (1) Documentation of corrective actions shall be retained for 10 years; and
- (2) Documentation of notice to the public as required under Env-Ws 351 or successor rules in Env-Dw 800 shall be retained for 3 years.

(b) A PWS owner who has been notified by the department or any other local, state, or federal agency having enforcement authority that an investigation of the system or enforcement action against the system has been initiated shall retain the documentation specified in (a), above, for the time period specified in (a), above, or 3 years beyond the conclusion of the investigation and enforcement action, whichever is longer.

Source. (See Revision Note #3) #9760, eff 7-30-10

## APPENDIX

Rule Section(s)	State Statute(s) Implemented	Federal Regulation(s) Implemented
Env-Dw 720 (also see specific sections below)	RSA 485:1, 3, 4, 41, 43, 45, 58	40 CFR 141; 40 CFR 142
Env-Dw 720.01 - Env-Dw 720.03	RSA 485:1, II(a), (d), (e), & (h); RSA 485:3, I(c); RSA 485:4, I & III; RSA 485:41, V; RSA 485:45	40 CFR 141.21(d); 40 CFR 141.401; 40 CFR 142.10(b)(2)
Env-Dw 720.04 - Env-Dw 720.07	RSA 485:1, I; RSA 485:3, I(c); RSA 485:58, I	40 CFR 141.21(d); 40 CFR 141 Subpart D (§§31-35) 40 CFR 141 Subpart S (§§400-405)
Env-Dw 720.08	RSA 485:1, I; RSA 485:3, III(b); RSA 485:43	40 CFR 141.31; 40 CFR 141 Subpart Q (§§201-211); 40 CFR 141 Subpart S
Env-Dw 720.09	RSA 485:1, I; RSA 485:41, IV	40 CFR 141.33; 40 CFR 141 Subpart S